

AMENDED IN SENATE JULY 16, 2003

AMENDED IN ASSEMBLY MAY 13, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1545

Introduced by Assembly Member Simitian

February 21, 2003

An act to amend ~~Section 21091~~ *Sections 21091 and 21092.2* of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1545, as amended, Simitian. Environmental quality: public comments.

The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

CEQA ~~also~~ requires a draft EIR, EIR, or negative declaration prepared pursuant to CEQA be prepared directly by, or under contract to, a public agency, and requires the lead agency that is preparing an EIR to provide public notice of that fact, specifying the period during which comments will be received on the draft EIR and the date, time, and place of any public meetings or hearings on the proposed project. CEQA authorizes information or other comments to be submitted in any format and requires the public agency to consider them if they are received within the public review period.

This bill would require the lead agency, with respect to the consideration of comments received on a draft EIR, to accept comments via e-mail and treat e-mail comments as equivalent to written comments. *The bill would require any law or regulation relating to written comments received for specified purposes to also apply to e-mail comments received for those purposes. The bill would, if the agency offers to provide the notices by e-mail, authorize a person, upon filing a written request for notices, to request that the notices be provided to him or her by e-mail.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21091 of the Public Resources Code is
2 amended to read:

3 21091. (a) The public review period for a draft
4 environmental impact report may not be less than 30 days. If the
5 draft environmental impact report is submitted to the State
6 Clearinghouse for review, the review period shall be at least 45
7 days, and the lead agency shall provide a sufficient number of
8 copies of the document to the State Clearinghouse for review and
9 comment by state agencies.

10 (b) The public review period for a proposed negative
11 declaration or proposed mitigated negative declaration may not be
12 less than 20 days. If the proposed negative declaration or proposed
13 mitigated negative declaration is submitted to the State
14 Clearinghouse for review, the review period shall be at least 30
15 days, and the lead agency shall provide a sufficient number of
16 copies of the document to the State Clearinghouse for review and
17 comment by state agencies.

18 (c) Notwithstanding subdivisions (a) and (b), if a draft
19 environmental impact report, proposed negative declaration, or
20 proposed mitigated negative declaration is submitted to the State
21 Clearinghouse for review and the period of review by the State
22 Clearinghouse is longer than the public review period established
23 pursuant to subdivision (a) or (b), whichever is applicable, the
24 public review period shall be at least as long as the period of review
25 by the State Clearinghouse.



(d) (1) The lead agency shall consider comments it receives on a draft environmental impact report, proposed negative declaration, or proposed mitigated negative declaration if those comments are received within the public review period.

(2) (A) With respect to the consideration of comments received on a draft environmental impact report, the lead agency shall evaluate comments on environmental issues that are received from persons who have reviewed the draft and shall prepare a written response pursuant to subparagraph (B). The lead agency may also respond to comments that are received after the close of the public review period.

(B) The written response shall describe the disposition of each significant environmental issue that is raised by commenters. The responses shall be prepared consistent with Section 15088 of Title 14 of the California Code of Regulations, as those regulations existed on June 1, 1993.

(3) (A) With respect to the consideration of comments received on a draft environmental impact report, *proposed negative declaration, proposed mitigated negative declaration, or notice pursuant to Section 21080.4*, the lead agency shall accept comments via e-mail and shall treat e-mail comments as equivalent to written comments.

(B) *Any law or regulation relating to written comments received on a draft environmental impact report, proposed negative declaration, proposed mitigated negative declaration, or notice received pursuant to Section 21080.4, shall also apply to e-mail comments received for those reasons.*

(e) (1) Criteria for shorter review periods by the State Clearinghouse for documents that must be submitted to the State Clearinghouse shall be set forth in the written guidelines issued by the Office of Planning and Research and made available to the public.

(2) Those shortened review periods may not be less than 30 days for a draft environmental impact report and 20 days for a negative declaration.

(3) A request for a shortened review period shall only be made in writing by the decisionmaking body of the lead agency to the Office of Planning and Research. The decisionmaking body may designate by resolution or ordinance a person authorized to request

1 a shortened review period. A designated person shall notify the
2 decisionmaking body of this request.

3 (4) A request approved by the State Clearinghouse shall be
4 consistent with the criteria set forth in the written guidelines of the
5 Office of Planning and Research.

6 (5) A shortened review period may not be approved by the
7 Office of Planning and Research for a proposed project of
8 statewide, regional, or areawide environmental significance as
9 determined pursuant to Section 21083.

10 (6) An approval of a shortened review period shall be given
11 prior to, and reflected in, the public notice required pursuant to
12 Section 21092.

13 (f) Prior to carrying out or approving a project for which a
14 negative declaration has been adopted, the lead agency shall
15 consider the negative declaration together with comments that
16 were received and considered pursuant to paragraph (1) of
17 subdivision (d).

18 *SEC. 3. Section 21092.2 of the Public Resources Code is*
19 *amended to read:*

20 21092.2. The notices required pursuant to Sections 21080.4,
21 21083.9, 21092, 21108, and 21152 shall be mailed to ~~any~~ every
22 person who has filed a written request for notices with either the
23 clerk of the governing body or, if there is no governing body, the
24 director of the agency. *If the agency offers to provide the notices*
25 *by e-mail, upon filing a written request for notices, a person may*
26 *request that the notices be provided to him or her by e-mail.* The
27 request may also be filed with any other person designated by the
28 governing body or director to receive these requests. The agency
29 may require requests for notices to be annually renewed. The
30 public agency may charge a fee, except to other public agencies,
31 that is reasonably related to the costs of providing this service. This
32 section may not be construed in any manner that results in the
33 invalidation of an action because of the failure of a person to
34 receive a requested notice, provided that there has been substantial
35 compliance with the requirements of this section.